Supreme Court, U.S.
FILED
05-78 JUL 12 2005
OFFICE OF THE CLERK

No.

In The

Supreme Court of the United States

MICHAEL CRAIG CLARK
a/k/a
RABBI MEEKHAEL SHANE SOFER

Petitioner

v.

STEPHANIE C. GRAHAM; RICHARD BOLLARD; PERQUIMANS COUNTY; STATE OF NORTH CAROLINA; UNITED STATES OF AMERICA,

Respondents

On Petition For Writ Of Certiorari
To The Fourth Circuit Court Of Appeals

PETITION FOR WRIT OF CERTIORARI

Michael Craig Clark
Petitioner Pro Se
122 Juniper Street
Hertford, NC 27944
Phone: 252-426-7652

[In Compliance With Rule 14.1 (a)]

QUESTION PRESENTED FOR REVIEW

Due to the fact that the trial court has summarily determined that there are no triable issues in the present claim and same being affirmed at the appellate level, the following PETITION FOR WRIT OF CERTIORARI sets forth the important and timely constitutional question requiring this high court's answer: ***Does the administrative objective correlative use, in government function and/or government forum, of the Bible (a revered book promoting a particular religion) abridge First Amendment Establishment Clause?***

[In Compliance with 14.1(c))]

TABLE OF CONTENTS

Page

Question Presented for Review i

Table of Contents.....ii

Citations of Opinions and Orders iii

Basis for Jurisdiction in This Court iv

Constitutional Provisions, Treaties, Statutes, Ordinances, and Regulations Involved in the Case.....v

Statement of the Case .....vi – vii

Argument: Text of the Petition.....1- 7

APPENDIX.....I - XVIII

U.S. District Court Order.....II -VII

4th Circuit U.S. Court of Appeals
UNPUBLISHED per curiam opinion .....VIII - IX

Constitutional References X

42 U.S.C.S. 1983.....XI

42 U.S.C.S. 1985.....XII - XIII

42 U.S.C.S. 1331.....XIV

NC Gen. Stat. Chap. 11. Oaths.....XV - XVII

Pictures County Courthouse Bibles.....XVIII

STATEMENT IN COMPLIANCE WITH SUPREME COURT RULE 14.1(d)

ORDER : U.S. District Court, Eastern District of North Carolina, Northern Division may be viewed on pages II – VII of APPENDIX.

OPINION (UNPUBLISHED): U.S. 4th Circuit of Appeals may be viewed on pages VIII-IX of APPENDIX.

[In Compliance with Rule 14.1(e)]

BASIS FOR JURISDICTION IN THIS COURT

The original ORDER was entered IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA, NORTHERN DIVISION on September 27, 2004, same having original jurisdiction pursuant to Article III and U.S.C.S. 28: 1331.

Appellate review having jurisdiction to the Fourth Circuit Court of Appeals, Richmond, Virginia, same having on April 15, 2005 AFFIRMED district order now being petitioned for Writ of Certiorari to the present U.S. Supreme Court for review of the lower court's judgment for consideration governing review on certiorari being that of "a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court."

The statutory provision believed to confer on this Court jurisdiction to review on a Writ of Certiorari the judgment or ORDER in question is that of a constitutional question and jurisdiction pursuant to U.S. Constitution Article III.

[In Compliance with Rule 14.1(f)]

CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES, ORDINANCES, AND REGULATIONS INVOLVED IN THE CASE

U.S. Constitution, First Amendment

U.S. Constitution, Fourteenth Amendment, Section 1

42 U.S.C.S 1983

42 U.S.C.S. 1985

28 U.S.C.S. 1331

North Carolina General Statutes Chapter 11. Oaths.

STATEMENT IN COMPLIANCE WITH SUPREME COURT RULE 14.1(g)

The underlying claims in this case arise from petitioner's objection to the use of a Bible during the administration of his oath to tell the truth.

The events giving rise to this case are petitioner's continued subjection to the administrative objective correlative use of the "Holy" Bible in government function and/or forum in the state of North Carolina also County of Perquimans, North Carolina and United States federal government forum and/or function. The state of North Carolina has no secular affirmation process in lieu of sworn Bible default oath to which petitioner has on many occasions been compelled subject to for due process reasons over the course of many years during his residency in the state of North Carolina.

In the present case U.S. district judge's ORDER affirmed by U.S. 4th Circuit Court of Appeals concludes that the administrative use of Bibles in government function and/or forum is for a "secular purpose of impressing upon would-be witnesses the solemnity of their oath to tell the truth and consequences of perjury".

STATEMENT IN COMPLIANCE WITH SUPREME COURT RULE 14.1 (g) (ii)

Present PETITION FOR CERTIORARI seeks review of a judgment of a U.S. Court of Appeals. The basis for federal jurisdiction in the court of first instance being the U.S District Court for the Eastern District of North Carolina, Northern Division having original jurisdiction pursuant to U.S.C.S. 28: 1331 which declares: "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States. "

STATEMENT IN COMPLIANCE WITH SUPREME COURT RULE 14.1(h): "A direct concise argument amplifying the reasons relied on for allowance of the writ."

The present case is narrowly drawn to a constitutional question that can only be answered by this high court, the Supreme Court of the United States, being the court of last resort. U.S. district court having original jurisdiction to this question and the merits of the claim has relied upon a U.S. 4th Circuit Court of Appeals decision [See Peck v. Upshar County Bd. of Educ., 155 F.3d 274 (4th Cir. 1998).] in its final order to summarily dismiss and to which 4th Circuit has affirmed that summary dismissal, thus leaving only this high court, the Supreme Court of the United States, to decided a very important constitutional question as to the Establishment Clause thereof, thus indicating the character of the reasons this court should consider WRIT OF CERTIORARI in compliance with Supreme Court Rule 10(c). Therefore petitioner is approaching this court for CERTIORARI review to decide this important question and in the interest of justice WRIT OF CERTIORARI should be allowed.

Petitioner contends, contrary to judge's affirmed opinion, there is no secular use of the Bible reasonably concluded. In fact, the Bible is universally recognized to purport religious ideology in support of establishing a certain religion and the administrative objective correlative government use of the Bible or any book that establishes religious ideology in the oath process required by due process to prick one's conscience to tell the truth or thereby imprecate all the divine judgments set forth therein upon one's head for one's failure to comply, speaks exceedingly loud to the fact that such administrative use in government forum and/or function is not just for a secular purpose as district judge alleges and appellate circuit affirmed.

Establishment of religion exercised and set forth with the Bible has no legal place in government function of this country and the Establishment Clause of the Constitution of the United States clearly cries out against such. What is displayed in the NC oath

taking statute is a perfect example of the misuse of religious ideology promoted by the Bible in government function to unconstitutionally establish a religion and the exercise thereof upon the moral conscience of those obligated to the use of due process and exercise thereof whether or not their conscience permits. Justice demands a religion free oath taking process within government function and in which the religion free affirmation, alluded to within the federal process, would adequately satisfy state function as well. It is a long overdue lesson in which the Bible belt states across this country, like North Carolina, need to learn and remains the only way to set this country back upon its constitutional axis upon which it was originally founded by the rule of law. Changing the default in the oath process to that of a secular affirmation with no religious overtones should prove a step in the right direction to correct this problem and states like North Carolina should come to realize that fact. The importance and timeliness of this issue to be heard by the present high court is even more magnified by the fact that hot on the heels of this case are multitudes of foreigners and new citizens seeking due process of law and requiring an alleged right to the use of their own religious books to exercise their moral conscience within government administrative functions. Obviously, this will cause an over taxation of the legal system of this country with any attempts to meet those demands to the many various religions represented. The only reasonable solution to this impending problem would be the adoption of an across-the-board secular affirmation oath equally applied and enforced by standing perjury statute penalties which should prove adequate a vice to squeeze the truth from everyone rather than relying upon one's religious superstitions and fears which rightfully should be left to the clergy.

As far as the Bibles being displayed and used in federal, state and county government functions within a government facility used by the plaintiff, as an American citizen and a long time resident of the state of North Carolina, petitioner has in the past and on many occasions been compelled to use said federal, state and local government facilities and with all reasonable assumption will have to continue in the future to use same facilities requiring due

process. Thus, his standing to challenge the government's misuse of the Bible in their administrative functions and/or forums should be upheld in this high court's review of this case because this problem is not going away as long as the petitioner is confronted with his continued use of said government facilities which continue to use a religious book like the Bible to administer due process.

The bottom line is this: North Carolina General Statute Chapter 11 Oaths remains unconstitutional upon its face and in its application to the plaintiff as well as anyone else within the borders of the state of North Carolina. Thus, standing to review such a state policy in the present high court is jurisdictionally correct when the constitutionality of any statute of a state is drawn into question.

NC General Statutes Chapter 11 Oaths speaks for itself in its purpose to imprecate upon the heads of liars divine judgment by swearing upon the Bible in the oath process. The fact remains, the state still offers no strictly secular/civil affirmation process but to the contrary requires a further religious exercise with religious antics based upon the Bible similar to that of the Bible oath process. A requirement that obviously extends the same imprecation of divine judgments purported by the Bible and administratively used also in the affirmation process of North Carolina even though the NC state statute alleges a waiver to the religious aspect of the oath by not requiring laying one's hand directly upon the "Holy" book itself. This seems to the petitioner quite an administrative antic in the NC state legislature's wording of the statute, attempting to end-run the constitutional aspect of its Establishment Clause. But what is even worse is the U.S. District Judge Terrence Boyle (sworn to uphold the Constitution) giving support to this illegal use of the Bible in a civil court of law by inferring in his ORDER in this case, under ANALYSIS, the fifth paragraph, (See APPENDIX exhibit of Judge Boyle's ORDER) that the U.S. 4th Circuit insinuated in *Peck v. Upshar County Bd. of Educ.*, 155 F.3d 274 (4th Cir. 1998) that: ***"Here, the bibles, have the secular purpose of impressing upon would-be witnesses the solemnity of their oath to tell the truth and consequences of perjury."*** Anyone that can read the Christian Bible knows it teaches that the ***"consequences of perjury"*** for all liars are the *fires*

of hell! If the government of a democracy like the United States is so impotent that it can not imprecate its own civil judgments for law breakers rather than trying to imprecate divine judgments purported by an ecclesiastical book, not even American in its origin, then it has the obligation of rewriting its Constitution to that more aligned with ecclesiastical Rome. The Declaration of Independence and a lot of blood separated this country from such tyranny and there is no need to reinvent the wheel of government.

The Christian Bible has never been officially adopted as a civil law book in this country nor has any civil government of this country the authority to judge the petitioner or any other citizen of this civil government thereby, in the manner North Carolina is doing and Judge Boyle is affirming in his ORDER and the U.S. 4th Circuit has upheld in its decision in the present case.

If it takes another grass roots case evolving perhaps from a traffic ticket obligating petitioner's due process rights, he is prepared to travel this road again. But why, and especially in light of 28 U.S.C.S. 2403, would this high court require such a feudal effort of redundancy just to bring this issue to the court's table again when the issues presented in the present case clearly layout the problem that is exercised throughout this country daily. Any continuation of turning a blinded eye when the facts are clear only reconfirms the hypocrisy alleged by the American citizenry of its own government. Just like every other American citizen, petitioner should not be subjected to this inordinate conduct perpetrated upon the American public which is made so starkly obvious when viewing historic government events such as the presidential oath process wherein again the misuse of the Bible abridges constitutional boundaries by the administrative objective correlative governmental use of the Bible in that oath process.

Contrary To Judge's Order U.S. Defendant Should Remain A Party To This Claim

Plaintiff's failure to duplicate service upon U.S. defendant is not grounds for dismissal. It is well established in the rule of